REMARKS

The outstanding rejection of claims 1-4, 6-7 and 9-17 under 35 U.S.C. § 102(e) as being anticipated by Jindal et al., U.S. Patent No. 6,327,622 is respectfully traversed. Applicants are not seeking claim coverage on the known technique (as in Jindal et al.) of wide area network load balancing of client requests to a set of mirrored applications or content servers. The claims here are specific to the particular way in which a network map that is used to direct such client requests is actually generated. This is the "proxy point" or "core point" process that is identified in the written description and throughout the claims themselves.

MPEP § 2131 provides that a "claim is anticipated <u>only</u> if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. ... 'The identical invention must be shown in as complete detail as contained in the ... claim.' The elements must be arranged as required by the claim." (citations omitted, emphasis supplied). This requirement was not met for any of independent claims 1, 2, 4, 7 or 12, for the reasons now described.

With respect to claim 1, for example, Jindal et al. do not disclose identifying a set of one or more proxy points, <u>wherein each proxy point represents a given point in the Internet at which a trace originating from each of a set of content provider mirror sites directed toward a given name server intersect</u>. The portions of the text cited by the Examiner (e.g., C5L65-C6L22) merely illustrate a central server (which can be DNS) having a lookup table 102. Even if that lookup table were considered to be some sort of routing map, in general the claim language here describes a <u>unique type of map</u>, one that is generated by first locating the network-based "proxy points" and then executing certain network performance tests <u>against those proxy points</u>. Jindal et al. merely teach that the lookup table data is generated by information "collected (from the various applications [being load balanced] and, possibly, the host servers. This information is host server load information, host server liveness, and distance to each host server as measured presumably from the central server (the description does not say how this distance is measured). Wide area network load balancing across a set of servers based on server load or network performance measurements is not what Applicants are claiming, however. The reference does not describe a "proxy point" concept or construct, wherein each proxy point (in the wording of

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claim 1) represents "a given point in the Internet at which a trace originating from each of a set of content provider mirror sites directed toward a given name server intersect." Without such an express teaching in Jindal et al., the anticipation rejection fails. Moreover, because the reference does not even suggest the "proxy point" concept, the reference also does not suggest generating the network map by: probing the proxy points to generate given data, generating a download predictor score for each content provider mirror site based on the given data generated by probing the proxy points, and identifying which mirror site provides a best download performance based on the download predictor score.

Each of independent claims 2, 4 and 12 also recite a "proxy point" limitation, describing, for example, that a proxy point represents "a given point in the Internet at which a trace originating from each of a set of mirror sites directed toward a given name server intersect." There is simply nothing in Jindal et al. that discloses or suggests this feature. Thus, the anticipation rejection on these claims must be withdrawn as well.

Independent claim 7 uses the word "core" instead of "proxy" and also describes a specific process for actually probing the points and generating the network map. Jindal et al. do not describe any actual map making process whatsoever (they only describe the information that might go into that process), so clearly the anticipation rejection must be withdrawn with respect to this claim as well.

The obviousness rejection regarding dependent claims 5 and 8 cannot stand once the anticipation rejection is removed. This rejection is traversed but need not be specifically addressed given the deficiencies in the primary reference.

At best, Jindal et al. teach the use of a lookup table in a DNS central server to direct client requests to one of a set of servers based on a policy that balances server load, server liveness, and server distance/location with respect to a central server. There is nothing in Jindal et al., however, that describes the generation of so-called "proxy" (or "core") points as defined here, let alone network performance testing with respect to those points to generate the network map itself. That is the scope of protection that Applicants seek here.
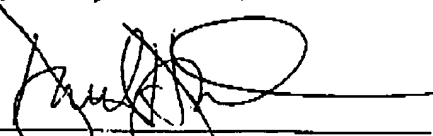
For these reasons, all claims clearly distinguish over the cited art.

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In reviewing the claims, it was believed the certain of the claim language wording might be improved. The Examiner will see that several words and phrases have been amended to this end, but these amendments are provided either to improve the readability of the claims or, in some cases (such as claim 7) to describe a preferred operating environment. For the reasons set forth above, however, the "proxy point" limitations set forth in the claims - standing alone - distinguish over the cited art, and thus the additional amendments should not be construed as being required to support patentability with respect to this art.

A Change of Correspondence Address has been included, together with an Information Disclosure Statement that identifies other CDN references, as well as several references cited in one or more of the companion cases referred to on page 1 of the written description.

A Notice of Allowance is respectfully requested.

Respectfully submitted,

David H. Judson
Registration No. 30,467

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